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SENATE BILL 971

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

ROMAN M. MAES III

AN ACT

RELATING TO FINANCIAL INSTITUTIONS; ALLOWING DEPOSITS OF THE SEVERANCE TAX PERMANENT FUND IN BRANCH BANKS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-27-5.19 NMSA 1978 (being Laws 1993, Chapter 267, Section 2) is amended to read:

"7-27-5.19. DEPOSITS IN NEW MEXICO FINANCIAL INSTITUTIONS--LIMITATIONS. --

A. No more than twenty percent of the book value of the severance tax permanent fund may be invested in deposits in New Mexico financial institutions under terms and conditions set by the council in accordance with the provisions of this section.

B. To be eligible for deposits under this section, a financial institution's loans and investments ~~must~~ shall equal

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1 in the aggregate at least one hundred thousand dollars
2 (\$100,000). If eligible, a financial institution may qualify
3 for deposits as follows:

4 (1) a financial institution may qualify for
5 deposits in an amount equal to new loans and investments made by
6 that financial institution after July 1, 1993;

7 (2) the financial institution shall provide the
8 state investment officer with the necessary documentation and
9 information for each new loan or investment and the state
10 investment officer shall verify that each such loan or
11 investment meets the requirements of this section and the
12 regulations, guidelines and investment policies adopted pursuant
13 to this section; and

14 (3) in any calendar year, the state investment
15 officer may increase the deposits in any financial institution
16 only to the extent new loans and investments made by the
17 financial institution have increased over the same period of the
18 prior year.

19 C. Notwithstanding any other collateral, interest
20 rate or other provisions of law to the contrary governing
21 deposit of public money in Chapter 6, Article 10 NMSA 1978,
22 deposits of the severance tax permanent fund made pursuant to
23 this section shall be governed by the regulations, guidelines
24 and investment policies established by the council and shall not
25 be made until such regulations, guidelines and policies are

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1 adopted. Those policies shall provide:

2 (1) the terms and conditions for pledging of
3 collateral security and the amount and kind of collateral
4 security to be pledged; provided:

5 (a) no collateral shall be required for
6 deposits of financial institutions rated "A" by the council
7 pursuant to its risk assessment analysis, unless the council in
8 its sole discretion deems it necessary to protect the severance
9 tax permanent fund;

10 (b) financial institutions not rated "A"
11 by the council shall secure each severance tax permanent fund
12 deposit with security having an aggregate value equal to
13 seventy-five percent of the amount of money deposited by that
14 institution or any greater percentage determined by the council
15 in its sole discretion to be necessary to protect the severance
16 tax permanent fund;

17 (c) secured deposits shall be secured by:
18 1) securities of the United States or its agencies or
19 instrumentalities, the state or its agencies or
20 instrumentalities or political subdivisions of the state; 2)
21 securities guaranteed by agencies or instrumentalities of the
22 United States; or 3) New Mexico residential mortgages;

23 (d) to be rated "A" by the council, a
24 bank [~~must~~] shall at a minimum have: 1) primary capital at
25 least equal to six percent of assets; 2) net income after taxes

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1 at least equal to sixty-one hundredths of one percent of the
2 average assets of the bank for the current quarter and for each
3 of the three previous quarters; and 3) an aggregate amount of
4 nonperforming loans, defined as loans that are at least ninety
5 days past due, that does not exceed thirty-four and nine-tenths
6 percent of primary capital; provided the council in its sole
7 discretion may increase any of the requirements of this
8 paragraph to protect the severance tax permanent fund; and

9 (e) to be rated "A" by the council, a
10 savings and loan association [~~must~~] shall have a regulatory net
11 worth equal to at least three percent of total assets and net
12 income after taxes equal to at least thirty hundredths of one
13 percent of average assets for the current quarter and for each
14 of the previous three quarters; provided the council may
15 increase these requirements or add additional criteria for
16 nonperforming loans as a percentage of primary capital or net
17 worth that are similar to the criteria for banks, as necessary
18 to conform to changing applicable federal regulatory
19 requirements or to protect the severance tax permanent fund;

20 (2) the rate at which severance tax permanent
21 fund deposits shall bear interest, payable monthly, which shall
22 be at a fixed market rate determined by the council, but in no
23 event shall the rate of interest paid be less than the yield
24 available on comparable maturities of obligations of the United
25 States government, its agencies or instrumentalities or

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1 obligations guaranteed by the United States government, its
2 agencies or instrumentalities, whichever is higher;

3 (3) the terms of maturity, renewal or
4 withdrawal; provided that in no event shall the maturity exceed
5 eight years and the council may withdraw any deposit before
6 maturity without penalty if more than seventy-five percent
7 collateral is required by the rules and regulations adopted by
8 the council; and

9 (4) such other terms, including the financial
10 condition of the financial institution, as the council deems
11 prudent to protect the severance tax permanent fund and to
12 implement efficiently and effectively the deposit program.

13 D. In making deposits in New Mexico financial
14 institutions pursuant to this section, the state investment
15 officer shall not deposit from the severance tax permanent fund
16 an amount that exceeds two hundred percent of the total equity
17 capital in the case of banks or two hundred percent of the net
18 worth in the case of savings and loan associations or ten
19 percent of the total of that bank's or the savings and loan
20 association's deposits, whichever is less. These limits shall
21 be based on the most recently published statement of financial
22 condition required by federal or state financial authorities as
23 certified by an authorized officer of the financial institution
24 unless the council has more current reliable information from
25 the financial institution. In the event a financial institution

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1 exceeds the limitations set forth in this subsection, the state
2 investment officer may withdraw without penalty the deposits
3 that exceed that limitation. The maximum funds on deposit or
4 the deposit limit in this subsection shall not apply to the
5 state fiscal agent bank as to the funds held by the fiscal agent
6 bank or demand deposits held by a state checking depository bank
7 approved by the state board of finance in accordance with the
8 provisions of Section 6-10-35 NMSA 1978.

9 E. As used in this section:

10 (1) "financial institution" means a New Mexico
11 bank, a branch of a bank doing business in New Mexico or a
12 savings and loan association that is qualified as an insured
13 public depository;

14 (2) "investment" means a New Mexico municipal
15 bond or a New Mexico industrial revenue bond; and

16 (3) "loan" means a loan of any term that is
17 secured or unsecured and is made for business purposes. "Loan"
18 does not include a loan that is a renewal or restructuring of a
19 loan existing on or before July 1, 1993, a loan of more than
20 three million dollars (\$3,000,000) to one borrower, a student
21 loan, a consumer loan or a loan to purchase or provide permanent
22 financing on a personal residence, but does include a loan that
23 is made to "persons of low or moderate income" as that term is
24 defined in the Mortgage Finance Authority Act, is secured by
25 real estate and is held and serviced by the original lending

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1 financial institution in New Mexico. For purposes of this
2 paragraph, "business" includes but is not limited to
3 manufacturing; construction; transportation; communications;
4 publishing; wholesale or retail business; restaurants;
5 entertainment; architectural, engineering and other professional
6 services; medical and health services; food processing; farming
7 or ranching; mining and natural resource exploration and
8 development; and research and technology development. "

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1 FORTY-THIRD LEGISLATURE
2 FIRST SESSION, 1997
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6 February 26, 1997
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8 Mr. President:
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10 Your CORPORATIONS & TRANSPORTATION COMMITTEE, to
11 whom has been referred
12

13 SENATE BILL 971
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15 has had it under consideration and reports same with
16 recommendation that it DO PASS, and thence referred to the
17 FINANCE COMMITTEE.
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20 Respectfully submitted,
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25 _____
Roman M. Maes, III, Chairman

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(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 6 For 0 Against

Yes: 6

No: 0

Excused: Fidel, Griego, Leavell, McKibben

Absent: None

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1 FORTY-THIRD LEGISLATURE

2 FIRST SESSION, 1997

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6 March 5, 1997

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8 Mr. President:

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10 Your FINANCE COMMITTEE, to whom has been referred

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12 SENATE BILL 971

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14 has had it under consideration and reports same with
15 recommendation that it DO PASS.
16

17
18 Respectfully submitted,

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22 _____
23 Ben D. Altamirano, Chairman
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Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

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Date _____

The roll call vote was 7 For 0 Against

Yes: 7

No: None

Excused: Aragon, Eisenstadt, Ingle, Romero

Absent: None

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State of New Mexico
House of Representatives

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

March 15, 1997

Mr. Speaker:

**Your BUSINESS AND INDUSTRY COMMITTEE, to whom has
been referred**

SENATE BILL 971

**has had it under consideration and reports same with
recommendation that it DO PASS, and thence referred to the
APPROPRIATIONS AND FINANCE COMMITTEE.**

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

HBIC/SB 971

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Respectfully submitted,

Fred Luna, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 7 For 0 Against

Yes: 7

Excused: Alwin, Getty, Gubbels, Hobbs, Rodella, Varela

Absent: None

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